

United States District Court

NORTHERN DISTRICT OF CALIFORNIA

FILED

APR 16 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

Venue: San Francisco

V.

CRIMINAL COMPLAINT

GILBERTO NARANJO AVILA

a/k/a GILBERTO NARANJO

a/k/a GILBERTO AVALOS

CASE NUMBER: 3 08 70231

I, the undersigned complainant being duly sworn, state the following is true and correct to the best of my knowledge and belief. On or about April 9, 2008 in San Mateo County, in the Northern District of California defendant did,

OFFENSE: GILBERTO NARANJO AVILA (a/k/a GILBERTO NARANJO and GILBERTO AVALOS), an alien, after having been removed, excluded, and deported from the United States, was thereafter found in the United States without having obtained the express consent of the Attorney General or the Secretary of the Department of Homeland Security to reapply for admission into the United States, in violation of Title 8 United States Code, Section(s) 1326.

I further state that I am a Special Agent and that this complaint is based on the following facts:
Official Title

SEE ATTACHED AFFIDAVIT IN SUPPORT OF THIS COMPLAINT

PENALTIES: Imprisonment for not more than 20 years, a fine of not more than \$250,000.00, a \$100.00 dollar special assessment, and 3 years supervised release.

APPROVED AS TO FORM:


ASSISTANT UNITED STATES ATTORNEYContinued on the attached sheet and made a part hereof: ☒ Yes ☐ NoWarrant of Arrest Requested: ☐ Yes ☒ NoBail Amount: **NO BAIL**

Signature of Complainant

Sworn to before me and subscribed in my presence,

4-16-08 at San Francisco, California
Date City and State

Honorable James Larson

United States Magistrate Judge

Name & Title of Judicial Officer


Signature of Judicial Officer

knowingly remained in the United States without first having obtained the consent to reapply for admission from the Attorney General of the United States or the United States Secretary of Homeland Security.

5. The official Immigration Service file for AVILA contains two executed Warrants of Removal. The Warrants of Removal are dated August 8, 2000, two days before AVILA was deported from the United States to Mexico for the first time, and January 28, 2003, the day AVILA was deported from the United States for the second time.

6. On April 9, 2008, officers from the Half Moon Bay Police Department arrested AVILA on state charges. ICE agents learned that AVILA was in the custody of the Half Moon Bay Police Department and lodged an ICE detainer against him pending local charges.

7. On April 9, 2008, I interviewed AVILA at the Half Moon Bay Police Department in Half Moon Bay, California. After AVILA was advised of his Miranda rights, he admitted that he was a citizen and national of Mexico. AVILA further stated he had been previously deported from the United States on two separate occasions. AVILA also admitted that he illegally reentered the United States on an unknown date in 2006 by crossing on foot through the San Ysidro Port of Entry, in San Ysidro, CA. AVILA stated he used a false identification to enter the United States. AVILA stated he knew he was supposed to receive permission from the United States to reenter the country but failed to do so.

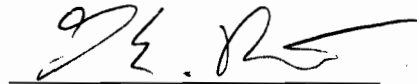
8. On April 10, 2008, the Federal Bureau of Investigation Special Processing Center compared fingerprints from AVILA'S August 8, 2000 and January 23, 2003 Warrants of Deportation with fingerprints taken incident to AVILA'S April 9, 2008 arrest, discussed in paragraph 7, above, which were provided by the Half Moon Bay Police department. The comparison showed that the fingerprints on the August 8, 2000 and January 23, 2003 Warrants of Deportation are identical to the fingerprints taken by the Half Moon Bay Police department incident to AVILA'S April 9, 2008 arrest.

9. There is no indication in ICE's official files that AVILA has applied for or been granted the requisite permission to reenter the United States from either the Attorney General of the United States or the Secretary of Homeland Security.

10. On April 15, 2008, AVILA was released from Half Moon Bay Police Department custody to ICE custody. AVILA was informed he would face federal charges and was advised of his right to speak with the consular or diplomatic officers of his country of citizenship.

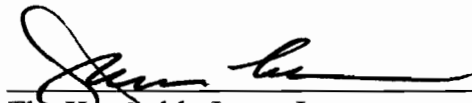
V. CONCLUSION

11. On the basis of the above information, I submit that probable cause exists to believe that GILBERTO NARANJO AVILA, a/k/a GILBERTO NARANJO, a/k/a GILBERTO AVALOS illegally reentered the United States following deportation, in violation of 8 U.S.C. § 1326.



Tim Paterson
Special Agent
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security
San Francisco, California

Subscribed and sworn to before me this 16th day of April, 2008.



The Honorable James Larson
United States Magistrate Judge
Northern District of California
San Francisco, California